

## **STATUS OF THE CLAIMS**

Claims 1-24 were originally filed in the patent application. In the pending office action, claims 1-24 were rejected under 35 U.S.C. §112. Claims 1-5, 8-11, and 14-22 were rejected under 35 U.S.C. §101. Claims 1, 2, 4-8, 10-17, and 19-24 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting. Claims 1-24 were rejected under 35 U.S.C. §103(a) as being unpatentable over Camble *et al.*, Publication No. US2003/0135580A1 (hereinafter Camble) in view of Circenis *et al.*, Patent Number 7,146,496 (hereinafter Circenis). No claim was allowed. In this amendment, claims 3, 9, 15-16, 18, and 20-21 have been cancelled, claims 1, 4, 8, 10, 14, and 19 have been amended. Claims 1-2, 4-8, 10-14, 17, 19, and 22-24 are currently pending.

## **REMARKS**

### **Objection to the Specification**

The examiner objected to the specification because the serial number and filing date are not listed. The specification has been amended herein on p. 1 and p. 3 to add the appropriate serial number and filing date of the related application.

### **Objection to the Drawings**

The examiner objected to FIG. 8 of the drawings, stating this figure should be designated by a legend such as --Prior Art--. FIG. 8 has been amended herein to include the legend “Prior Art” as suggested by the examiner, and the specification has been amended on p. 7 to reflect the amendment to FIG. 8.

### **Rejection of claims 1-24 under 35 U.S.C. §112, first paragraph**

The examiner rejected claims 1-24 under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. The examiner states: “The term minimum resource specification was mentioned in the specification without defining what it is and what the specification indicates for each partition.” This statement by the examiner is incorrect. The specification states at p. 11 lines 1-2:

The minimum resource specification 210 specifies the minimum resources defined by the customer that must be available for the logical partition to function correctly.

Because the term “minimum resource specification” is expressly defined in applicant’s specification, the examiner’s rejection of claims 1-24 under 35 U.S.C. §112, first paragraph is in error, and applicants respectfully request reconsideration of the examiner’s rejection of these claims.

Rejection of claims 1-5, 8-11 and 14-22 under 35 U.S.C. §101

The examiner rejected claims 1-5, 8-11 and 14-22 under 35 U.S.C. §101 as being directed to nonstatutory subject matter. All of the independent claims have been amended herein to recite not allowing a sum of all the minimum resource specifications for all of the plurality of logical partitions to exceed a total of resources that are permanently enabled. In the examiner's rejection of claims 3, 9 and 18, the examiner states:

Since the sum of all specifications never changes, it remains as it is, making the produced result remains [sic] in the abstract and, thus, fails to achieve the required status of having real world value.

The examiner's statement that the sum of all specifications never changes is incorrect. The minimum resource specification may change, as shown comparing FIGS. 7 and 8. Because the minimum resource specification may change as resources are added or deleted from a computer system, the claims clearly recite statutory subject matter under 35 U.S.C. §101, and applicants respectfully request reconsideration of the examiner's rejection of these claims under 35 U.S.C. §101.

Claims 14 and 19 have been amended herein to recite a computer readable program product, and to replace the term "computer readable signal bearing media" with the term "recordable media", thus limiting these claims to tangible, computer readable embodiments, which is an article of manufacture. See In re Beauregard, 53 F3d 1583, 35 USPQ2d 1383 (Fed. Cir. 1995). Applicants respectfully submit that claims 14-24 recite statutory subject matter under 35 U.S.C. §101.

Rejection of claims 1-2, 4-8, 10-17 and 19-24 under obviousness-type double patenting

The examiner rejected claims 1-2, 4-8, 10-17 and 19-24 under obviousness-type double patenting based on co-pending patent application serial no. 10/616,676. This cited

patent application has the same filing date as the subject patent application. As a result, there is no issue under obviousness-type double patenting because both of these patents, if and when issued, will have the same term, namely 20 years from the date of filing. As a result, no terminal disclaimer is required, and applicants respectfully request reconsideration of the examiner's rejection of claims 1-2, 4-8, 10-17 and 19-24.

Rejection of claims 1-24 under 35 U.S.C. §103(a)

The examiner rejected claims 1-24 under 35 U.S.C. §103(a) as being unpatentable over Camble in view of Circenis. Each of the independent claims have been amended herein to recite the limitation of not allowing a sum of all the minimum resource specifications for all of the plurality of logical partitions to exceed a total of resources that are permanently enabled. Note that the term "base resources" is defined in the specification at p. 8 lines 9-12, which states:

The term "base resources" as used herein refers to the resources that are permanently enabled on apparatus 100, and includes all resources that are enabled when the computer system is acquired, and includes all additional resources that are subsequently permanently enabled.

The amendments to the claims herein use the term "resources that are permanently enabled" in the place of the term "base resources" in the claims as filed for clarification. In the rejection, the examiner mapped the total amount of resources the user is allowed to use in Camble as specified in the license key. The license key in Camble indicates total capacity, which includes temporary resources, and thus expressly teaches away from resources that are permanently enabled as recited in the pending claims.

The examiner has provided no mapping of the prior art on the limitation "specified resource-time" in the claims. In addition, the examiner has provided no mapping of the prior art on the limitation "minimum resource specification" in the

claims. For these reasons, the examiner has failed to establish a prima facie case of obviousness for the pending claims under 35 U.S.C. §103(a).

Neither Camble nor Circenis nor their combination teach or suggest a minimum resource specification for each of a plurality of logical partitions, and not allowing a sum of all the minimum resource specifications for all of the plurality of logical partitions to exceed a total of resources that are permanently enabled in the apparatus. For this reason, claims 1-24 as amended are patentable over the combination of Camble and Circenis.

### Conclusion

In summary, none of the cited prior art, either alone or in combination, teach, support, or suggest the unique combination of features in applicants' claims presently on file. Therefore, applicants respectfully assert that all of applicants' claims are allowable. Such allowance at an early date is respectfully requested. The Examiner is invited to telephone the undersigned if this would in any way advance the prosecution of this case.

Respectfully submitted,

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